City of Lafayette
City Council Special Meeting
MINUTES

Lafayette Community Center -- Sequoia Room **January 14, 2008**
500 St. Mary's Road, Lafayette, California **6:30 p.m.**

1. CALL TO ORDER

Mayor Anderson called the meeting to order at 6:30 p.m.

2. ROLL CALL

Present: City Council: Mayor Anderson, Vice Mayor Tatzin, Councilmembers Andersson Anduri and Federighi

Absent: None

Staff: Steven Falk, City Manager; Ann Merideth, Community Development Director; Niroop Srivatsa, Planning & Building Services Manager; Gene Tanaka, City Attorney, John Brown, City Attorney

3. ADOPTION OF AGENDA

ACTION: It was M/S/C (Tatzin/Andersson) to adopt the agenda. Vote: 5-0-0 (Ayes: Anderson, Tatzin, Andersson, Federighi, Anduri; Noes: None; Absent: None).

4. PUBLIC COMMENTS –

SAMUEL HOLMES referred to his letter and addressed five points to the Council.

1) The city is not under any risk for so-called land-locking Lot 14 owned by James and Nanna Busby.
2) The city is not barred by 90 day time limit on certain type of action under the Subdivision Map Act.
3) The filing of the final map did not eliminate the conditions of approval of the permit application.
4) The conditions in the matter, including the agreement of no access between Lot 15 and Palo Alto Drive, were adopted by the City Council
5) The city does have the right to compel performance of a condition agreed to by a developer.
6) The most expeditious, economic and sensible way to accomplish the objectives is to get a court to rule on whether Mr. Busby and the city entered a contract that Mr. Busby is bound to comply with, specifically that there shall be no access to Palo Alto Drive from Lot 15.

KATHY MERCHANT also referred to a letter that she had submitted and stated that credibility is critical in a conversation like this. The most important bond between a community's citizens and it city leaders is trust, trust that when the City Council makes a public commitment about an issue affection a group of citizens, it will follow through on that commitment in perpetuity, unless there is a subsequent publicly announced intent to amend that commitment.

11A

The City Council's commitment to Section 7 and Mr. Busby's acceptance of Section 7 is well documented multiple times in earlier submitted materials to the Planning Commission and City Council.
Most importantly, Mr. Busby's attorney Mr. Stirling contends that Section 7 still existed after Mr. Busby signed the final map, the document Busby/Gold/Winther claim is the ultimate test. She asked that the Council hold Mr. Busby accountable for the public agreement made between him, the Council and the neighborhood.

STAN CODY stated that he supports Mr. Holmes action to sustain the neighborhood's rights as a 3rd party beneficiary, Regarding a 32 year delay, he stated that the access was restricted by Busby's own doing.

DICK HOLMES stated that it was very difficult to render professional opinions and to admit one's mistake. Charlie Williams was the City Attorney at the time and he suggests that City Council discuss the matter with Charlie who is highly competent.

KEITH THOMAS stated that he was here because of the Gold letter and the mischaracterizations and misstatement. Representatives from all four sides of the property are here to oppose anything being built in the middle. At the time Mr. Busby gave up the right to Palo Alto, we thought it was anywhere on Palo Alto. Mr. Busby can still negotiate with with the andlersand the Quail Ridge subdivision. He recommended that the city look at the law and protect the people in the neighborhood.

JOHN SAKAMOTO stated that he was asking the Council to enforce actions taken by its predecessors over 30 years ago. Those actions have been documented and presented to the Council and the members of the Planning Commission at previous meetings. It is unfortunate that all the conditions and agreement of access to the 9 Acre Parcel were not fully recorded on the Final Map. However, it is clear that both parties relied on this and other conditions that were also omitted following the recording of the Final Map. This constitutes an obvious agreement and contract by both parties.

What also is a clear fact is that Mr. Busby traded the rights of access to the Parcel and benefited in this agreement. It is offensive that 30 years later, the applicant himself is seeking to overturn agreements he made between himself and the City again to financially gain from the transaction.

Vice Mayor Don Tatzin stated that he saw Charlie Wiliams and talked about the letter from Mr. Gold. Charlie stated that he saw a draft of the letter and found some inaccuracies in it, but had not seen the final version.

5. CLOSED SESSION

A. Conference with Legal Counsel -- Anticipated Litigation
Government Code section 54956.9 (b) -- Significant exposure to litigation (1 potential case)

B. Conference with Legal Counsel -- Anticipated Litigation
Government Code section 54956.9 (c) -- Initiation of Litigation (1 potential case)

6. ADJOURNMENT

ACTION: It was M/S/C (Tatzin/Andersson) to adjourn the meeting at 7:20 p.m. to the regular City Council meeting. Vote: 5-0-0 (Ayes: Anderson, Tatzin, Andersson, Anduri Federighi).

APPROVED:

_____
Mike Anderson, Mayor

ATTEST:

_____
Joanne Robbins, City Clerk

City of Lafayette
City Council Regular Meeting

MINUTES

Lafayette Community Center - Manzanita Room **January 14, 2008**
500 St. Mary's Road, Lafayette, California **7:00 p.m.**

1. CALL TO ORDER

Mayor Anderson called the meeting to order at 7:22 p.m.

2. ROLL CALL

Present: Mayor Anderson, Vice Mayor Tatzin, Councilmembers Andersson, Anduri and Federighi

Absent: None

Staff: Steven Falk, City Manager; Tracy Robinson, Administrative Services Director; Ann Merideth, Community Development Director; Niroop Srivatsa, Planning & Building Services Manager; Gene Tanaka, City Attorney, John Brown, City Attorney; Christine Sinnette, Senior Planner; Tony Coe, Engineering Services Manager; Joanne Robbins, City Clerk

3. PLEDGE OF ALLEGIANCE – led by Mayor Anderson

4. ADOPTION OF AGENDA

Councilmember Federighi requested an emergency item be added under Item 12.1.A. In order to discuss the Council Calendar. Currently, the calendar has a Goal Setting Workshop for February 4 which she will not be able to attend. City Attorney Brown said the need to agenize the matter arose subsequent to the posting of the agenda and a 4/5 vote would be needed by the Council in order to add it to the agenda for discussion and action.

ACTION: It was M/S/C (Federighi/Tatzin) to add as Item 12.1.A as an emergency item to discuss the Council Calendar. Vote: 5-0-0 (Ayes: Anderson, Tatzin, Andersson, Anduri, Federighi; Noes: None; Absent: None).

ACTION: It was M/S/C (Tatzin/Andersson) to adopt the agenda, as amended. Vote: 5-0-0 (Ayes: Anderson, Tatzin, Andersson, Anduri, Federighi; Noes: None; Absent: None).

5. REPORT FROM CLOSED SESSION

A. Conference with Legal Counsel -- Anticipated Litigation Government Code section 54956.9 (b) -- Significant exposure to litigation (1 potential case)

B. Conference with Legal Counsel -- Anticipated Litigation Government Code section 54956.9 (c) -- Initiation of Litigation (1 potential case)

Mayor Anderson reported that the City Council gave direction to legal counsel in Closed Session.

6. **PUBLIC COMMENTS** - None

7. **PRESENTATIONS** - None

8. **OLD BUSINESS**

A. Gene Tanaka, City Attorney

Update on litigation concerning proposed access from Palo Alto Drive through a 0.12 acre parcel (APN 244-022-005) to a contiguous existing 9.25-acre vacant parcel (APN 244-300-001) owned by James and Nanna Busby.
Recommendation: Receive and File

Mayor Anderson said a closed session item was held on the item where direction has been given and he asked for public comment on the item.

PUBLIC COMMENTS:

DONALD THIELKE, President of the homeowners association of the development, said all parties in attendance have an interest in the outcome of the matter, said the applicant's January 7, 2008 letter to the Council was convoluted, initiated by the property owner after alternative access failed to materialize from the perspective developers and the Planning Commission concluded that the matter of access was not in their jurisdiction. Only then did a 20-foot wide utility strip containing a drainage easement become the focus of attention. He discussed the history of the parcel, said the Planning Commission produced 43 conditions of approval, condition 5 indicates there shall be no further subdivision of the property and the owners shall, before a building permit is issued, grant to the City a scenic easement and reserving the 6+ acres of community open space shown on the Tentative Map as undevelopable open space in perpetuity except for City-approved recreation facilities. Condition 36 states that no permanent structure of any kind other than drainage structures shall be constructed on or over any drainage easement. Neither one of these conditions survived. In January of 1976, Mr. Busby proposed three building sites within the newly formed Lot 15. A new Planning Commission continued hearings which eventually produced a revised list of 50 conditions of approval in 1977. Included in the revised list was conditions 7 A, B C, D and E which refers to the two lots in the subdivision of Lot 15 only after the vehicular access is available from Cambridge Drive. The final map was recorded March 30, 1977. In 1980, a Planning Commissioner addressed concerns regarding the subdivision 4747 storm drainage issues specifically quoting conditions of approval 35 and 36 as applicable to Court Harbor Company, the new owner. In September of the same year, Mr. Carlos Angwin, successor to Mr. Lyon, entered a tri-party agreement with Court Harbor Company and the affected property owner on behalf of the City of Lafayette to provide a permanent solution of the problem. He said conditions 35 and 36 did survive and were viable in the eyes and opinion of the signatory parties of that agreement as are the remaining 48 others, including condition 7. It is his understanding that recording of the Final Map is the duty and responsibility of the developer, and that conditions 35, 36, 39 and 41 are still alive and well.

KEVIN TRACY said he lives two doors down from where the proposed driveway would be, said he has built over 2,000 homes, has seen a lot of configurations in how homes fit together on lots, and he has seen something similar to this go in as an alley. He said it was wrong to build behind a master bedroom and have vehicle headlights shine into the room every day in the early morning. To get a driveway through the area would be a great compromise to the rights and privileges of Keith Thomas and Richard Holmes.

SAMUEL HOLMES said he spoke briefly at the last Council meeting, said the land that is not legal and there is no basis for inverse condemnation because there is no action against the land. He said there is a 90-day time limit of the Subdivision Map Act which does not apply to an action by the City, but only to an action by a developer against the City. The final map act did not require that the conditions of the subdivision be included on the map. The final map is for tax purposes and not to recite all conditions. Also, there was an agreement entered between Mr. Busby and the City Council. On one occasion, the City enforced it and this should not be overlooked. Mr. Busby agreed he would convey a 40 foot strip between two of the lots on Palo Alto Drive which was the naturally obvious access to Lot 15. He agreed to give it up. After he received his permits, he did not do it; the City had to put pressure on him through a few letters from Planning before he finally did what he agreed to do to convey the 40 foot strip. The agreement between the City and Mr. Busby has been enforced on that occasion. He feels the same agreement should be enforced with respect to no access, and he suggested a letter from the City Council be written to suggest the City allow the judicial process to play out, suggest there be certainty and finality, and the most expeditious way to do this is what they have proposed—get the court to rule on whether Mr. Busby and the City entered a contract and whether Mr. Busby is bound by his contract, specifically the provision there be no access between lot 15 and Palo Alto Drive. This can be done without cost or obligation to the City. All that need be done is authorization to bring the City into the current litigation, let the court determine whether there is an enforcement contract, and it would be simple, direct, and no expense to the City. There would be no further harassment of the Planning Commission, the City Council, no more assertion of legal theories, the Council would enforce what it and the third party beneficiaries have enjoyed for 40 years and are entitled to.

RICHARD HOMES said he discussed with the County Recorder and Assessor regarding the Council's position on the issue who indicated to him they do not maintain conditions placed on the final map. He said the map is a simple document associated with conditions, one of which states there be no access to Lot 15 from Toledo Drive. He felt it was up to the City Council to establish the conditions it wants when giving someone the authorization to build and urged the Council to consider the memorandum his brother submitted and recognize that the actions of one or two individuals would allow access to an area never meant to have access.

STAN CODY questioned whether comments would go into the record, supported Samuel and Richard Holmes' representations, he believed that all neighbors are additional third party beneficiaries to the contract that was made some time ago and felt it was time to put the matter to rest.

Mayor Anderson closed the public hearing and said there was no action the Council needed to take. City Attorney Tanaka said the Council has given direction to the City Attorney and he expects to return at the next meeting for a Closed Session and to possibly hold some discussion in open session, as well.

B. Niroop Srivatsa, Planning & Building Services Manager
Appeal of the 2007 Regional Housing Needs Allocation: Draft housing allocations assigned by the Association of Bay Area Governments (ABAG) to Lafayette for the period 2007-2014 which are: 113 very-low income, 77 low-income, 80 moderate income and 91 above-moderate income units for a total allocation of 361 units.
Recommendation: Continue discussions on the regional housing needs allocations (RHNA) and authorize the Mayor to forward a letter to the ABAG Board expressing Lafayette's concerns about the regional housing needs allocations process and the methodology used to assign housing units to the jurisdictions in the Bay Area

Planning and Building Services Manager Niroop Srivatsa said the Council considered the matter at its last meeting and requested staff to return with answers to some questions. The questions have been answered in the staff report. Today, staff found from ABAG that in addition to the City of Mountain View, the cities of Palo Alto and Emeryville have also filed appeals to ABAG and copies of their appeal letters were emailed to the Council as well as on the Council dais. Staff's recommendation is that we not file an appeal but rather send a letter expressing our concerns about the methodology and process to ABAG.

Councilmember Anduri asked that in the three appeals from Emeryville, Palo Alto and Berkeley were they questioning the basic methodology or were they questioning how it was applied. Ms. Srivatsa said Palo Alto's comments are similar to Lafayette's; they talk about infrastructure constraints and the fact that it is almost impossible to meet the numbers.

Mayor Anderson questioned if the proposal to send a letter that basically indicates our displeasure with the methodology maintains the City's ability to litigate in the future. Ms. Srivatsa said the City Attorney at the last meeting indicated the City would need to file an appeal in order to preserve those rights.

PUBLIC COMMENTS:

LYNN HIDEN said the Board of the Lafayette Homeowners Council read the Council packet, has tracked the issue since its inception, and has had input into earlier Council staff letters sent to ABAG. They agree with Councilmember Anduri that we would not ever want there to be some feeling at ABAG that we must have ultimately been happy with our numbers because we did not appeal. She suggested that the City start working with other cities under the assumption that nothing is certain but death and taxes, to see if the disastrous and clumsy methodology passed by ABAG that resulted in so many unrealistic allocations to so many cities has changed. The Board believes that while it is helpful to our morale to direct a letter to ABAG expressing Lafayette's concerns about regional housing needs allocation process and the methodology used, it will afford us little protection in the future. They believe ABAG in no way comprehends what it has created and its resulting impacts, that we need to stand up for Lafayette and have an obligation to make yet one more attempt to attract ABAG attention and comprehension, not only for ourselves but to help set the ground work for possible litigation if we are harmed and for future revision to the flawed methodology addressed in letters by so many Bay Area cities. We believe the current methodology produces numbers for most

cities that are unachievable given the lack of essential services, future available land, the high cost of acquiring it, the impacts of so much growth on city neighborhoods and infrastructure, and that setting these requirements that cannot be achieved threatens the credibility and viability of important public institutions and become simply an exercise in futility. We believe our efforts in creating a walk able, viable Lafayette downtown has led ABAG to assume the City has fewer limits to intensifying infill development than it actually has. We need to explain we have constraints that severely impair our ability to sustain a great amount of traffic and housing, such as flood plains, liquefaction areas, poor soils, narrow winding roadways, traffic congestion, and steep topography and landslide hazards. We need to explain that while we can make our numbers in this round, subsequent assumptions for future roads are impossible. Much of our land is unsuitable for development by environmental constraints, these constraints were not considered in the ABAG allocation; like Palo Alto, we believe that if ABAG adopts more realistic and achievable regional housing allocation goals, cities will be able to focus on providing adequate housing, and therefore, the Board requests the City appeal.

Councilmember Andersson said he shared the same concerns; that a letter will not have the impact we would like it to have. He wondered if Ms. Hiden believed that an appeal will have any greater impact. Ms. Hiden said probably not. She suspects what the City will have to do is waiting until the round ends, a fair amount of disaster occurs, or nothing happens and the methodology gets changed.

Mayor Anderson closed the public hearing. He said the staff report indicates the letter not be an appeal but a letter that indicates the City's concern with the methodology used. However, if the City does not appeal, it limits our ability to litigate in the future.

Vice Mayor Tatzin said having attended some ABAG meetings and requested information, he discussed there was no choice but to file a Freedom of Information Act request and ask them to respond to letters. He agrees with staff's sentiments that ABAG has been very tone-deaf on these issues, but they continue in this manner, there are certain jurisdictions that appreciate that and given the rules set up, he did not believe an appeal letter would go anywhere. He therefore felt the draft letter is just as good and would achieve the same an appeal letter would and maybe even more.

Councilmember Federighi concurred. She thinks the statement of the Lafayette Homeowners Association was well thought out and written, but on the other hand, she believed the City has more to lose than to gain from a real formal appeal. She believes they can get their point across and believes the letter may produce fewer housing units than are intended. One item not in the letter was Vice Mayor Tatzin's comments about how the housing market has changed so dramatically and developer interest in building housing. However, she said she supported staff's recommendation.

Councilmember Andersson asked if it was typical to copy Lafayette's letter to all ABAG member cities. Ms. Srivatsa said staff could forward a copy of the letter to the Contra Costa jurisdiction and any others the Council would prefer. Councilmember Andersson agreed with Vice Mayor Tatzin and staff's recommendation. Councilmember Anduri said he would support the majority of the Council and staff's recommendation.

Mayor Anderson said his problem is that the appeal process is specifically about the application of methodology which means that we are not really arguing about the use of the methodology, but something that has already come and gone. He felt the City

missed the opportunity or rather ABAG did not listen to the City when we tried to voice our concerns. He supported sending the letter and said the City needs to find a way to get the City satisfied with the methodology and it will take a concerted effort to carry this through one mayor to another in the various cities. He suggested reviewing the letter, see if there are any modifications to be made and provide staff with direction to make changes or forward the proposed letter to ABAG.

Vice Mayor Tatzin recommended indicating one of the City's dissatisfactions with the process was that ABAG was very slow in responding to our requested information, something which none of us would tolerate in our own agencies. Secondly, he asked to reiterate the issue that for all cities, these numbers are predicated on the housing market at a certain time, which is dramatically changing. With housing prices dropping dramatically, housing construction firms closing and filing bankruptcy and mortgages becoming more difficult to obtain, the Bay Area environment has changed and numbers as a whole need to be updated to reflect reality, and that it will take a minimum of two to three years for the housing market to turn around.

Mayor Anderson said he was interested in making it clear when the City did and did not receive replies to the many letters sent to ABAG. In addition, in the final paragraph on the last page, third line up from the bottom of the first page; "ABAG staff adjusted this factor such that it put more affordable units in the areas where they are less likely to be built." He asked to add to the sentence, "...due to the cost of construction." Councilmember Federighi asked to also add after "construction" the words "and land." Mayor Anderson accepted her suggestion.

Vice Mayor Tatzin noted that ABAG staff was truly not responsible for this; that a policy committee made these decisions.

ACTION: It was M/S/C (Tatzin/Andersson) to send the letter to ABAG, incorporating changes as discussed. Vote: 5-0-0 (Ayes: Anderson, Tatzin, Andersson, Anduri, Federighi; Noes: None; Absent: None).

C. Tony Coe, Engineering Services Manager
Library Construction Impacts on Golden Gate Way On-Street Parking
Recommendation: Receive and file

Engineering Services Manager Tony Coe said in November the Council received a letter from Lafayette Motors on Golden Gate Way with allegations regarding employees from the Library construction project parking inappropriately on Golden Gate Way, thereby crowding out spaces intended to be used by patrons of the businesses in the area. The Council asked staff to return with a report on the matter. He said even before the Library project began, there has been controversy regarding on-street parking on Golden Gate Way dating back to 1998. Over the years the City has taken various steps to try and preserve on-street parking spaces for their intended use by patrons of businesses in the area with varying degrees of success.

He said when the contract was issued for the construction project, staff included in specifications that the contractor and their subcontractors were prohibited from using parking spaces fronting businesses on Golden Gate Way for employee parking. At the Council's request, staff observed parking conditions over a three-week period beginning in the first part of December leading up to the holiday period, and during the first week of

January. Staff did not find any evidence of rampant abuse by contractors or subcontractors parking on Golden Gate Way. While staff has no way of tracking every single construction worker, those observed did not park on Golden Gate Way. Further, staff observed occupancy and turnover conditions of the parking and found the conditions to be consistent with what had been reported in studies over the past 5 years which leads staff to believe that the contractor and subcontractors are generally complying with the requirements in the contract. Therefore, staff is not recommending the Council take no further action on the parking situation in the context of the construction project.

Councilmember Andersson questioned if the contractor had a program in place for employee parking, and Mr. Coe said the contractor has issued at least four memoranda to his subcontractors stating the City's position and reiterating the requirements of the specifications. In terms of formal provisions for parking, the contractor does not have such an arrangement and they utilize the frontage of the project and spaces available within the project site.

Councilmember Andersson said when the project progresses and depending upon the type of work done in various stages, he questioned if the largest number of workers has already occurred or would it occur in the future. Mr. Coe said the levels of workers have been typical of the average number working consistently on the site. The project has had substantial structural work requiring several trades be on site at one time and approximately 30-40 employees at the same time on any given day.

Councilmember Andersson said as work progresses, he asked if there would be parking available in the garage areas in the project. Mr. Coe said parking in garages would be available on a limited basis and would not accommodate all workers mainly because even after the concrete decking is done, there will be other trades requiring access to perform mechanical, plumbing, electrical work and there will be a need for staging various equipment and materials throughout the site.

PUBLIC COMMENTS

BOB GRAY said he takes issue with Mr. Coe's staff report and said they have had parking issues in the past, with the latest occurring recently at McDonald where workers parked in the lot. Part of the contract states they would contain parking and this afternoon, he observed standing in front of 3 businesses on Golden Gate Way, there were 8 vehicles belonging to workers of the project. Also, during lunchtime, 3 workers walked down on Second Street, they went south, came back a few minutes later with lunches and he assumed those 3 workers were parked on Second Street. It was stated parking was to be around the perimeter of the lot. On the north side, there is no parking whatsoever because cars would protrude into the traffic lane by 3-4 feet. On Second Street, there is no space because of the width of the road. On Golden Gate Way, there are 8 spaces which are typically filled. He said the manager of the Hollis Plaza and Coral Pools have had several workers parking in front of their businesses and he felt it would be advisable to have someone observe the situation again. He also did not think it would be unreasonable for the City or contractor to make arrangements with Albertson's, Butler Conti or other businesses where workers could park their vehicles, which would take 10-12 cars off of Golden Gate Way. He believed more workers would be on the project site in the future and he asked the Council not to simply receive and file the report.

Councilmember Federighi said Mr. Gray mentioned there have been as many as 8 construction vehicles and she questioned if they had parked there longer than the 2 hour limit. Mr. Gray said the vehicles are parked there all day long but he has never reported them to the Traffic Enforcement Officer. He said the pictures he took displayed a day where it was raining and all spaces were empty. Another picture taken displayed the situation between 1:30-2:00 p.m. last Friday after he had received the staff report.

JEANNE STEWART, Hamlin Cleaners, said Mr. Coe chose to conduct his survey during times when it was raining and there are not as many cars, and she asked another study be conducted when it is not raining where more cars would be seen. She said on Friday afternoon two weeks ago, she found 3 construction trucks in her parking lot and she had to ask them all to move, which they did. She said it has been suggested some time ago to have employee stickers so that police would know the cars belong to employees, she said no one has ever contacted or followed up on the matter and this has not been implemented.

Councilmember Federighi said there is a parking meter task force that convened last year. Initially one of the recommendations was to have employee parking stickers, but the Circulation Commission disagreed with this and made suggestions to the Chamber of Commerce about available spots for employee parking as well as other recommendations. The matter was not completely ignored, it was discussed and initially, and alternative recommendations were made by the Chamber. She suggested Ms. Stewart contact Ms. Greenblat at City offices.

Mayor Anderson closed the public comment period.

Mayor Anderson felt the City would benefit from some additional study. Mr. Coe said staff observed parking conditions over a three week period starting in December through January on every weekday, rain or shine and he was not sure additional studies would yield a different set of observations.

Councilmember Anduri questioned if there was an established procedure or someone to contact to follow up if someone was parked in a regular space. Mr. Coe said when staff receives verbal complaints from merchants about vehicles occupying spaces in front of stores for an extended period of time they have consistently asked that they contact parking enforcement. Staff is out in the field and when illegal parking is observed, we remind people to move their vehicles and at the same time contact parking enforcement to issue citations. He agreed there was not 100% compliance, but overall, staff believes there is good compliance from the contractor who is making best efforts to ensure they are not staging parking in front of businesses. Conditions in their contracts are also higher standards than what is applied to any other private development going on in the downtown.

Mayor Anderson voiced concern that there is an on-going problem, said it sounds like there have been observations made from business owners which seem to be in conflict with staff's studies. He asked staff to schedule some time to meet with the speakers and come out on a day at their choosing to review the situation.

Councilmember Federighi said there is a difference with the situation at the cleaners versus the on-street parking and she encouraged the merchants along Golden Gate Way who notice workers who are parked more than 2 hours to report them. She also

believed this may be an area to install parking meters which would eliminate people from illegally parking past the two hour limit.

Councilmember Tatzin said it seemed there were days and times when it is less crowded, suggested staff remind the contractors of the parking policy. Mayor Anderson questioned if there was someone on-site who could be contacted who could meet with someone who has a problem, and Mr. Coe said there are inspectors stationed at the construction site, but he would also be happy to make himself available to those speakers voicing complaint.

City Manager Falk said over the last 20 years, the City has conducted several parking utilization studies. In two most recent studies, the intersection at First Street and Golden Gate Way was found to be the most heavily parked and busiest intersection of the entire City.

9. STAFF REPORTS

A. Jennifer Russell, Parks, Trails and Recreation Director

1. Increase hours for one part-time Senior Center Coordinator from 15 hours per week to 20 hours per week for staff services on the Senior Needs Assessment Committee.

Recommendation: Increase the budget program 11-141-705 by $2,838.

Mayor Anderson confirmed there were no public speakers.

ACTION: It was M/S/C (Anderson/Federighi) to increase hours for one part-time Senior Center Coordinator from 15 hours per week to 20 hours per week for staff services on the Senior Needs Assessment Committee. Vote: 5-0-0 (Ayes: Anderson, Tatzin, Andersson, Anduri, Federighi; Noes: None; Absent: None).

2. Naming the South Field at Buckeye Fields "Chaney Field" to honor local community volunteer Matt Chaney.

Recommendation: Approve naming the South Field at Buckeye Fields "Chaney Field" as recommended by the Parks, Trails & Recreation Commission and Lafayette Little League.

City Manager Falk said the item was proposed by members primarily of the Little League which is the organization where Mr. Chaney has been most involved. He has volunteered for the Little League for the past 8 years and on any given weekday, someone might see him out on the field. The proposal was reviewed by the Parks, Trails and Recreation Commission who supported the recommendation unanimously and forwarded it to the Council for consideration and approval. He said the President, John Ewing, is present to answer any questions.

Councilmember Tatzin questioned if the City has a naming policy. Mr. Falk said the Parks, Trails and Recreation Commission has an adopted naming policy which has been approved by the City Council and to name the field after Mr. Chaney has been done in accordance with that policy.

Mayor Anderson questioned whether there was any reason to name the field "Matt Chaney Field" as opposed to "Chaney Field" and Mr. Falk said he did not attend the meeting and asked Mr. Ewing to approach the microphone.

JOHN EWING, President of the Lafayette Little League, thought the name could be "Matt Chaney Field"; however, the name "Chaney" would fit nicely on the signage. He said it could be considered either way.

Mayor Anderson said he would like to see it named, "Matt Chaney Field", and Mr. Ewing agreed and said their main goal is to recognize someone who is an exceptional volunteer and great example to the youth in Lafayette.

Vice Mayor Tatzin made a motion which was seconded by Councilmember Federighi to name the South Field at Buckeye Fields "Matt Chaney Field". Councilmember Anduri said he would favor naming the field per the Park, Trails and Recreation Commission's recommendation as "Chaney Field"; however, he said he would not vote against the motion.

ACTION: It was M/S/C (Tatzin/Federighi) to approve naming the South Field at Buckeye Fields "Chaney Field" as recommended by the Parks, Trails & Recreation Commission and Lafayette Little League. Vote: 5-0-0 (Ayes: Anderson, Tatzin, Andersson, Anduri, Federighi; Noes: None; Absent: None).

10. PUBLIC HEARINGS

A. Christine Sinnette, Senior Planner

Consideration of an appeal by Anna Maria Dettmer of the Planning Commission's decision to rescind their previous direction to staff to prepare conceptual design studies for two properties located at 3233 Deer Hill Road (APN 323-150-028) and 1175 Pleasant Hill Road (APN 232-150-027) Recommendation: Adopt Resolution 2008-01 denying the appeal by Anna Maria Dettmer to rescind preparation of conceptual design studies.

Senior Planner Christine Sinnette said staff has been working for a number of years on the City-initiated General Plan and zoning amendments for several properties in the eastern Deer Hill area. The project description for the GPA and RZ included three properties currently zoned APO with consideration that they be re-classified as LR 10 or LR 20 and then possibly the remaining four parcels could also be considered for a rezoning.

During the Planning Commission deliberations on the amendments, they began to consider whether or not some conceptual bulk and mass design studies might be helpful in their deliberations and they asked staff to prepare a scope of work for a contract consultant to prepare the design studies for the two properties that front on Pleasant Hill Road. The Scope of Work and proposal from the consultant were reviewed by the Planning Commission at their meeting of November 15, 2007 and the Commission subsequently voted to rescind their previous direction to staff for preparation of the studies. A couple of reasons mentioned were that it was really not the purpose of the Planning Commission to design projects, and it was not within their scope to do so. They also felt it was unnecessary and unwise to use City money to have design studies prepared for private property.

After their decision, an appeal was filed by Martin Lysons on behalf of one of the property owners and Anna Maria Dettmer. She owns the two properties on Pleasant Hill Road as well as a number of other properties in the eastern Deer Hill area. The grounds for the appeal were that the conceptual studies would be necessary before any zoning decision could be made and would support the General Plan program for preparation of a specific plan for this

area, and that the Commission considers specific zoning issues without proper notice in violation of the Brown Act.

Regarding the specific plan, in February of 2003, the City Council made a decision not to prepare a specific plan and this is the time they directed staff to initiate the General Plan and zoning amendments. So, any issue regarding preparation of a specific plan at this point is mute, given the Council's earlier direction.

Regarding the violation of the Brown Act, review of the consultant's scope of work by the Planning Commission was considered to be an administrative matter and staff did not send out public notice on it. However, the item was agenized and described in the agenda packet according to the Brown Act. Also, Ms. Dettmer and several of her representatives received copies of the staff report and the agenda, they also knew exactly what the scope of the meeting was going to entail. However, since this appeal before the City Council is considered a de novo matter, public notice was mailed to surrounding property owners, Ms. Dettmer and her representatives.

The appellant also points out in his letter that by rescinding the request for the design studies, the Commission deprives itself of a vital tool for analyzing all of the development opportunities available to it and they have eliminated a potential mixed use zoning from consideration. Mixed use zoning for the study of the area was never seriously considered by the Planning Commission. Since initiated in 2004, the project description for the General Plan Amendment and Rezoning have always been for a change in the three properties zoned APO to some residential designation and then possibly looking at the four remaining properties.

Once the Planning Commission determines which property should be rezoned and what they should be rezoned to, then that project description and scope of study will be subject to CEQA, environmental review will be conducted, and then the matter will be forwarded to the City Council for their deliberations and consideration of the recommendations of the Planning Commission.

If the Council approves that General Plan Amendment and Rezoning, it would not necessarily preclude the property owners from coming forward at a later date with a development plan that the City might consider appropriate later on when they have some site specific proposals.

Ms. Sinnette said based upon analysis contained in the staff report, the grounds for appeal appear to be without merit and should be denied. Staff is recommending the Council deny the appeal and uphold the Planning Commission's decision to rescind the preparation of the conceptual design studies. Mr. Lysons is present this evening, Planning Commission Chair Mark Mitchell and there are a couple of speakers, as well.

Vice Mayor Tatzin questioned and confirmed with Ms. Sinnette that if there were a process that would change the zoning of this parcel to something other, part of the studies for that would require environmental review.

Mayor Anderson opened the public hearing.

MARTIN LYSONS, Gagen McCoy, representing Anna Maria Dettmer and the AMD Family Trust, said their firm has been involved with the current down zoning from its inception. Their

office forwarded a letter in 2004 regarding their opposition to the down zoning proposal. Their position has been consistent in their involvement and they have four basic points; 1) the Dettmer's remain opposed to the down zoning on the basis of fundamental fairness. It is not fair to punish the Dettmer's from refraining from developing the parcels for as long as they have owned them and they have investment expectations on the parcels; 2) the proposal is a taking of their property; 3) the General Plan itself requires or mandates the adoption of a specific plan prior to doing any kind of comprehensive zoning on the parcels; and 4) the down zoning of the Dettmer property will likely be inconsistent with the State's affordable housing goals. They will continue to oppose the down zoning on these grounds, but the issue before them tonight is more limited in scope.

He said his appeal letter talks about two bases for this appeal; first, that the Commission initially asked staff to study the possibility of a development under mixed use zoning. This included studies outlined in the staff report. They consider this to be a positive step and this was at least some indication that the Commission and the City were considering a mixed use zoning and the possibility that some mixed use was appropriate for these particular parcels. In short, it gave his client some faith that it was not a pre-determined outcome. The staff report states it is not the purpose of the Planning Commission to design projects and it is not within their scope to do so. Studies such as these are the types of studies they would expect under a specific plan, and this is the reason why his client is willing to go along with this process, feeling that their development rights were not going to be taken away.

Mr. Lysons said if the Commission truly desires to examine any proposed project purely on its merits, he asked then why not just leave the parcel alone at this time and bring a proposal under the current APO zoning. Secondly, he disagreed with staff's assertion in the staff report that the Planning Commission was not considering the merits of, or taking any action on, the proposed down zoning. He said this is not the standard by which to judge whether or not the Brown Act is violated. Under the Brown Act, the Commission does not get to discuss the merits of any zoning designations because of the nature of the notice that was given. According to the minutes, the Commissioners discussed whether or not anything but residential housing should even be considered. The Commission went further than that. Various Commissioners expressed that they were only going to consider "the lowest possible density." Their direction was to consider only low density residential development. This amounts to a decision on the merits. Leaving aside the fact that the Commission is essentially down zoning the property in a vacuum, they are discussing a very sensitive matter without giving the property owner the benefit of proper notice.

Mr. Lysons said Mike Hen who also represents his client spoke briefly on Ms. Dettmer's behalf, but he had no way of knowing that the issue was going to turn the discussion toward these substantive issues. He thought, as Mr. Lysons said he thought that the hearing would be limited to the description that was posted and distributed. The report does not quote the agenda item description and he quoted it for the record, which he read into the record. He said clearly, there was no indication that the merits of the proposed down zoning were going to be discussed. He also disagrees with staff that mixed use zoning was never considered. In fact, mixed use zoning was considered by the Planning Commission and this was the very reason why these studies were initially thought to be a good idea. They were asked for because 1) it is currently zoned for mixed use; and 2) there had to be some analysis of the opportunities for these parcels and their development. As mentioned, this proposed down zoning will be subject to CEQA and under CEQA, one of the analyses is going to have to be the current condition, or the no-project condition. Under the no-project condition, the parcels remain at APO zoning which allows for mixed use. Therefore, these need to be analyzed

very carefully and these studies are one of the ways that the existing conditions can be analyzed. Any discussion of the merits of the zoning action must be on the scope of the notice, which is clear. The Commission does not get to discuss anything beyond the scope of the notice; otherwise, it is a violation of the Brown Act. In doing so, they also deny the Dettmer's their own due process in this down zoning procedure.

Fundamental fairness dictates that this Council directs the Commission to have a properly noticed hearing before making a decision and having discussion about the merits of the proposed down zoning on Ms. Dettmer's property. They have been opposed to the down zoning as proposed by the Commission and will continue to do so. In the meantime, he asked that the Council provide his client a fair shot without a say of what happens to the property and not allow any hearing bodies to take substantive action without notice.

Vice Mayor Tatzin questioned if the Planning Commission took any action that essentially on the zoning of the parcels in question, and Ms. Sinnette said no; they did not make any recommendations or comments on the General Plan Amendment or Rezoning. Vice Mayor Tatzin confirmed that it is staff's view that the action the Commission took was consistent with the subject matter of the item.

Mr. Lysons read from the minutes and said clearly, the Commission was talking about substantive issues and about whether or not anything other than single family, low density development should be allowed on the parcels, which is beyond the scope of talking about whether the studies should be commissioned.

Mayor Anderson questioned legal counsel as to whether or not this was something a Commissioner could discuss. City Attorney Gene Tanaka said when the item was agenized in the fashion that it is, decision-makers, whether at the Planning Commission level or at the City Council level, must feel free to be able to express opinions that may propel them in one direction or another. He believed what they had was a free and fair exchange about whether or not these studies would take them in the direction they were prepared to go. At the end of the day, they came back and expressed opinions that led them to take the action they took, which he believed was consistent with the way the item was agenized for the purposes of the Brown Act. If he had to cut off a member of the City Council or Planning Commission every time they expressed opinions related to matters which they were discussing broadly for purposes of the Brown Act, he could not imagine being able to do that.

Councilmember Andersson said Mr. Lysons mentioned the question of taking. He said if these properties were rezoned for residential zoning, he questioned whether they would still be able to build homes on them. City Attorney Tanaka said yes, they would be down zoned from a potential hundred homes down to 5-6 homes. Councilmember Anduri said this was not the issue under discussion.

MARK MITCHELL, Planning Commission Chair, said he was present to listen to the testimony and answer any questions the Council might have of him. The Planning Commission has been struggling with this for a very long time now. The staff report shows that there were 14 meetings between the Planning Commission and the City Council where issues have been addressed. He said they have been working hard, they did commission an opportunity and constraints analysis that was done at a cost of $40,000, spent tens of thousands of dollars of City money on this, and some of the attachments in the staff report did not appear to show one of the charts that was more inclusive, specifically one on page 34; figure 16, which shows the slow density, the Class I ridgeline, the Class II ridgeline, the

earthquake fault, known landslides, the Live Oaks, the Valley Oaks, the freshwater marsh and drainage. So, there has been a substantial amount of work done.

Councilmember Andersson said the rationale for doing the study was plausible, the rationale for not doing the study is also plausible and he wondered if there was some event that moved the commission from one to the other. Mr. Mitchell said during the course of all of their meetings, they kept receiving more and more information. They received opinions from the City Attorney with regard to how the land would be treated and what they became aware of after receiving this report is that, if you look at one of the enclosures, there are lands greater than a 30% slope and this weighed heavily in their thinking because if it does go to residential use, this low density calculation will determine how much density will be allowable there. If it goes in a different direction, there will be a host of other factors involved.

Mr. Lysons said there was an opportunity and constraints analysis done and they appreciate this fact. They did voice some objections to that analysis because essentially it focused on constraints and did not talk about opportunities. Their concerns were somewhat allayed by the fact that at that Commission meeting where we discussed the opportunities and constraints and the limitations that it had, that the Commission first brought up the possibility of doing these additional studies to study continuation of mixed use zoning. For that reason and that reason alone, his client's concerns were allayed that the down zoning was not going to occur. Now that they decided not to do that, he is back to his original concern that the opportunities and constraints analysis is essentially just a constraints analysis. Another issue is that if in fact the constraints themselves are going to limit develop ability of a parcel, then so be it. There is really no reason for the Council or the City to down zone the property at all. Any development will have to work around the physical constraints on the parcel and they are happy to work with the City to do so. But the whole down zoning process is a waste of the City's time and money.

Mayor Anderson closed the public hearing.

Vice Mayor Tatzin said in looking at Mr. Lysons' appeal letter in terms of hearing from the City Attorney regarding the discussion that the Planning Commission had on the item, that the discussion was not bound by the Brown Act, certainly the City made within the bounds of how the item was noticed, so he did not see how there was any basis for that appeal. It strikes him that the conceptual study is an administrative matter; the City is under no obligation to do it, so again, he did not see what the basis for the appeal is. Certainly, should the City initiate any kind of zoning change after the property owner initiated a zoning change, there would have to be appropriate studies and appropriate environmental review to the extent that Mr. Lysons and his client are concerned about. In the case of a change of zoning, someone would have to look at the no project alternative. Maybe the constraints analysis that was conducted would be of input into that analysis but would not be the only part of that analysis. So again, he would be prepared to support the staff recommendation.

Councilmember Anduri confirmed with Ms. Sinnette that the specific plan was listed as a program, so she believes there is some discretion on how the Council chooses the time they choose to initiate actions on programs, and so the Council did make a decision not to prepare the specific plan. She said staff actually did go through the process of preparing a scope of work, looking for a consultant, but when they found out what the costs were, the City felt the benefit was not good.

Councilmember Federighi said she believed the chronology is most interesting and many of us participated for so many years, and the idea was originally to have a specific plan that was going to be $140,000. We decided that this really was not possible and direction was given by the Council to begin to prepare an amendment and to zone the property residential and not low density residential; however, she agreed this was not before the Council tonight.

ACTION: It was M/S/C (Tatzin/Anduri) to adopt Resolution 2008-01 denying the appeal by Anna Maria Dettmer to rescind preparation of conceptual design studies. Vote: 5-0-0 (Ayes: Anderson, Tatzin, Andersson, Anduri, Federighi; Noes: None; Absent: None).

11. CONSENT CALENDAR

Jointly Convene Redevelopment Agency and City Council

ACTION: It was M/S/C (Tatzin/Andersson) to jointly convene the Redevelopment Agency and City Council. Vote: 5-0-0 (Ayes Anderson, Tatzin, Andersson, Anduri, Federighi; Noes: None; Absent: None).

ACTION: It was M/S/C (Tatzin/Andersson) to approve Items 10.A, B, C, D, E and F. Vote: 5-0-0 (Ayes: Anderson, Tatzin, Andersson, Anduri, Federighi; Noes: None; Absent: None).

A. City Council Minutes

1. **December 6, 2007**
   Recommendation: Approve.

2. **December 10, 2007**
   Recommendation: Approve.

3. **December 27, 2007**
   Recommendation: Approve.

B. Resolution 2008-02 Appointing Standby Officers for 2008.
Recommendation: Adopt Resolution 2008-02.

C. Request for Creek Setback Exception, 4020 Tilden Lane
Recommendation: Approve creek setback exception and authorize the Mayor to execute the agreement for construction within the creek setback zone.

D. Agreement for Installation and Maintenance of Existing and New Landscaping between Robert Armstrong and the City of Lafayette, located at 3666 Boyer Circle. APN 241-162-015
Recommendation: Accept agreement and authorize Mayor to sign and City Clerk to record.

E. Letter received January 7, 2008 from Trentyn Blomquist resigning from the Youth Commission.
Recommendation: Accept with regret and direct staff liaisons to begin the process to fill the vacancy.

Convene Redevelopment Agency

F. **Adjustment to the Downtown Strategy budget to include BAAQMD grant funds.**
Recommendation: Increase the budget program 91-960-861 by $75,000.

Adjourn Redevelopment Agency

ACTION: It was M/S/C (Tatzin/Andersson) to adjourn the Redevelopment Agency. Vote: 5-0-0 (Ayes; Anderson, Tatzin, Andersson, Anduri, Federighi; Noes: None; Absent: None).

12. COUNCIL/COMMISSION REPORTS

A. Councilmember report on activities and consideration of matters a councilmember wishes to initiate for placement on a future agenda.

1. *Emergency Item* – Set Date for the Goal Setting Session on the Budget.

Councilmember Federighi said she would be out of town the week of February 4, 2008 and she hoped to hold the goal setting session in January or possibly the third Monday in February, or combine it with one of the regularly scheduled Council meetings.

Mayor Anderson said it was important for all Councilmembers to be present because he wanted the session to be a more detailed and intensive review of the budget in goal setting priorities. He suggested the City Clerk coordinate with the Council to identify availability for the Council to consider a new date which could be announced at the next meeting. Councilmembers discussed various alternatives, noted the holiday was February 18th, and availability.

ACTION: There was Council consensus to hold the goal setting session on February 11th, call a special meeting if needed and hold open February 4th for action items.

B. Mike Anderson, Mayor

1. 2008 Council/Commission/Committee Joint Meeting Calendar
Recommendation: Adopt the 2008 Council/Commission/Committee Joint Meeting Calendar

Mayor Anderson said they would continue in their tradition of having Commissions and Committees meeting with the Council before the regular meeting to discuss their goals and accomplishments. He said the City Clerk suggested placing CPAC early in the schedule so the Council can address items relating to the roads, which he believed was a good one.

ACTION: It was M/S/C (Tatzin/Andersson) to adopt the 2008 Council / Commission / Committee Joint Meeting Calendar. Vote: 5-0-0 (Ayes: Anderson, Tatzin, Andersson, Anduri, Federighi; Noes: None; Absent: None).

2. 2008 Council Assignments
Recommendation: Adopt the 2008 Council Assignments.

Councilmember Federighi said her first choices listed were more appropriately designated for the Vice Mayor and Mayor, so this left her with no Council subcommittee.

Her preference would be public safety. Mayor Anderson amended the assignment to include Councilmember Federighi as an Alternate for Public Safety.

Councilmember Federighi agreed to be an Alternate for Design Review, with Mayor Anderson as the primary representative.

ACTION: It was M/S/C (Tatzin/Andersson) to adopt the 2008 Council Assignments, as amended. Vote: 5-0-0 (Ayes: Anderson, Tatzin, Andersson, Anduri, Federighi; Noes: None; Absent: None).

C. Councilmember Brandt Andersson
Proposal for a Council Speakers' Bureau
Recommendation: Discuss and direct staff

Councilmember Andersson said he had brought up the idea last fall, said the Council interacts with people on a fairly regular basis, the thought was to prepare a basic talk which could be presented on basic City functions. He proposed on be done on the budget, the Redevelopment Agency and other functions where people generally do not know how they work, with the idea of finding ways scheduling speaking engagements with groups whose main purpose is not to talk to the Council. He believed the idea would be to engage people who are not typically engaged with the City Council. He thought it was a fairly modest investment of time to prepare a bucket video, materials and educate people on basic issues.

Councilmember Federighi supported the idea, said another topic could be City priorities or current issues. Vice Mayor Tatzin said clearly his experience in the community outreach portion of the Library funding campaign is that they had greater success in going to people as opposed to having people come to the City Council Chambers. He also said there are a number of homeowner associations who have block parties once a year, which draw the best crowds, and these dates would need to be identified.

Mayor Anderson said he thought it was more about letting people know the Council is available to speak at their functions than it is the City really preparing anything. Councilmember Andersson thought it was a little of both, such as placing information on the website, although blocks parties or monthly meetings of groups would be appropriate as well.

Councilmember Anduri questioned the amount of staff support in putting together presentations and also questioned who would act as the "booking agent." City Manager Falk said he and Tracy Robinson have prepared a number of presentations and could revise them to bring them current and have them on a laptop. City Clerk Robbins agreed to act as the booking agent.

Mayor Anderson said there is a monthly meeting that is held in Gayle Ulkema's Lafayette office, and Mr. Falk said he attends those meetings where more than one dozen people attend, and he agreed to notify the Council of these dates.

Councilmember Andersson questioned what the next topic should focus on, and Mayor Anderson noted the City Manager indicated there are several prepared presentations which can be brought up to date and made available. Mr. Falk said they have done a presentation which describes how roads are rated and how they are prioritized, one on

the budget, the bucket video and staff could bring these current.

ACTION: It was the consensus of the council to form a speakers bureau.

BREAK
Mayor Anderson called for a brief break, and thereafter, reconvened the regular meeting.

13. WRITTEN COMMUNICATIONS

A. Letter dated December 19, 2008 from Anne Grodin, Chairperson of the Lafayette Community Foundation, presenting a check in the amount of $1,518,767.27 for the construction of the Lafayette Library and Learning Center.
Recommendation: Receive and file

Mayor Anderson asked that staff could prepare a letter of thanks for his signature. Vice Mayor Tatzin said the Library Foundation would loan the City approximately $7.5 million and this, coupled with a donation from the Wayne and Gladys Valley Foundation, made up the $900 that the Community Foundation raised. The Valley Foundation initially had not been interested in participating in the loan, but we have a new way to approach them to ask them to reconsider. The benefit would be another three years of operating funding. So if the Council were to send a very gracious thank you letter to the Community Foundation, we should say we understand that there may be a subsequent request by the Valley Foundation to make this part of the overall loan amount and the City would be willing to accept the request.

Mayor Anderson questioned if the Council should consider the loan issue as a separate item as a Redevelopment Agency because there is not enough information now. Vice Mayor Tatzin therefore requested postponing any response.

ACTION: It was M/S/C (Tatzin/Andersson) to continue the item. Vote: 5-0-0 (Ayes: Anderson, Tatzin, Andersson, Anduri, Federighi; Noes: None; Absent: None).

14. ADJOURNMENT

ACTION: It was M/S/C (Tatzin/Andersson) to adjourn the meeting at 9:35 p.m. to the next regular meeting on January 28, 2008. Vote: 5-0-0 (Ayes: Anderson, Tatzin, Andersson, Anduri, Federighi; Noes: None; Absent: None).

APPROVED:

_____
Mike Anderson, Mayor

ATTEST:

_____
Joanne Robbins, City Clerk